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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

GELAGAY, SHEWAYE

ART UNIT	PAPER NUMBER
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2437

NOTIFICATION DATE	DELIVERY MODE
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11/26/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
mkraft@hp.com
ipa.mail@hp.com

Office Action Summary	Application No. 10/695,198	Applicant(s) HUBERMAN ET AL.	
	Examiner SHEWAYE GELAGAY	Art Unit 2437	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/29/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-25 and 27-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-25 and 27-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on 9/29/08, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Emmanuel L. Moise/

Supervisory Patent Examiner, Art Unit 2437

Response to Arguments

2. Applicant's arguments filed on 9/28/08 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

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3. Claim 24 is objected to because of the following informalities: The phrase "capable of" in the claim brings ambiguity. It is not clear an action following the phrase "capable of" is performed by the communication device or not. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 11-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 11 recites "if the number of matches do not meet or exceed a threshold, the communication device refrains from disclosing a physical location of a user of the external device to a user of the communication device, unless a predetermined attribute of the communication device matches another attribute of the external device" which is not described in the original specification. The specification on paragraph 25 discloses that "*Once all values are analyzed and the total number of matches is counted by communication devices A and B, the users of communication devices A and B may be notified of their mutual proximity and may be notified of the total number of matches.*" However, the specification does not describe

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"the communication device refrains from disclosing a physical location of a user of the external device, unless a predetermined attribute of the communication device matches another attribute of the external device" as recited in claim 11.

6. Claims 12-23 are also rejected for being dependent on a rejected claim.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 11-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites the limitation "the communication's device attribute" in line 9. There is insufficient antecedent basis for this limitation in the claim. If "an attribute" recited in line 3, is a "communication's device attribute", the claims should be amended to reflect that.

9. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: Claim 11 recites "based on a first encoded value received via the local communication interface from the external device" however, the claim language does not show any step of "receiving a first encoded value from the external device".

Claim Rejections - 35 USC § 103

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-6, 10-18, 20-21, 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huberman et al., "Enhancing Privacy and Trust in Electronic communities" (hereinafter Huberman) in view of Drutman et al. (hereinafter Drutman) US 6,618,593.

As per claim 1:

Huberman teaches a method usable on a first communication device adapted to communicate with a second communication device, comprising: obtaining a first key; encoding an attribute in the first communication device with the first key to produce a first encoded value; transmitting the first encoded value to the second communication device; receiving a second encoded value from the second communication device, the second encoded value comprising an attribute stored in the second communication device that has been encoded with a second key associated with the second communication device; encoding the second encoded value with the first key to produce a third encoded value; transmitting the third encoded value to the second communication device; receiving a fourth encoded value from the second communication device, the fourth encoded value comprising the first encoded value after being encoded by the second key; and if the third encoded value matches the

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fourth encoded value, adjusting a total number of matches; and enabling users of first and second communication devices contact one another only if said total number of matches meets or exceeds a threshold. (page 80, 3.Community discovery; page 81, Private-Preference Matching; page 85, A. Cryptographic Details and Private Preference Matching)

Huberman does not explicitly disclose physically locating one another based on the result of the preference matching; and wherein the first and second communication devices comprise mobile communication devices. Drutman in analogous art, however, discloses physically locating one another based on the result of the preference matching; (col. 3, lines 60-66; col. 7, lines 15-30; col. 9, lines 5-14; col. 14, lines 28-33) and wherein the first and second communication devices comprise mobile communication devices. (figure 2) Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the method disclosed by Huberman with Drutman in order to provide information related to the location of the mobile communication device to be used to subscribers of matchmaking or dating services. (col. 10, lines 8-15; Drutman)

As per claims 2 and 18:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. In addition, Huberman further discloses a method wherein obtaining a key comprises generating a random number. (Page 85, Cryptographic Details)

As per claim 3:

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The combination of Huberman and Drutman teaches all the subject matter as discussed above. In addition, Huberman further discloses a method wherein obtaining a key comprises reading a preprogrammed value from memory. (Page 85, Cryptographic Details)

As per claims 4 and 12-13:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. In addition, Huberman further discloses a method wherein encoding the attribute with the first key comprises calculating the attribute to the power of the first key to produce the first encoded value. (page 85, Private preference Matching)

As per claims 5 and 14-15:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. In addition, Huberman further discloses a method wherein the second encoded value comprises the attribute of the second device raised to the power of the second key and encoding the second encoded value with the first key comprises raising the second encoded value to the power of the first key. (page 81 and page 85, Private Preference Matching)

As per claim 6 and 16-17:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. In addition, Huberman further discloses a method comprising transmitting the first communication device's attribute to the second communication device only after determining that the third encoded value matches the fourth encoded value. (page 85, Private Preference Matching)

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As per claims 7 and 10:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. In addition, Drutman further discloses enabling users of the first and second communication devices to locate one another. (col. 9, lines 5-12)

As per claim 11:

Huberman teaches a communication device, comprising: a processor; memory accessible to said processor and containing an attribute and software executable on said processor; a communication interface coupled to said processor and adapted to permit the communication device to communicate with at least one other external device; wherein, by executing said software, said processor determines whether the attribute in communication device matches an attribute stored in an external device, without receiving the attributes from the external device, based on a first encoded value received via the local communication interface from the external device, said first encoded value being indicative of an attribute stored in the external device; wherein, if the attribute in the communication device matches the attribute stored in the external device, the communication device adjusts a number of matches; wherein, if the number of matches does not meet or exceed a threshold, the communication device refrains from contacting a user of the external device; unless a predetermined attribute of the communication device matches another attribute of the external device. (page 80, 3.Community discovery; page 81, Private-Preference Matching; page 85, A. Cryptographic Details and Private Preference Matching; *see 112 rejection given above*)

Huberman does not explicitly disclose the attribute is a communication's device attribute; physically locating one another based on the result of the preference matching; and wherein the first and second communication devices comprise mobile communication devices. Drutman in analogous art, however, discloses a profile/preference data may reflect the particular preferences of the mobile communications device or its user. The profile/preference data contain elements that uniquely identify the particular mobile communications device with which it is associated. (col. 7, lines 15-30) physically locating one another based on the result of the preference matching; (col. 3, lines 60-66; col. 7, lines 15-30; col. 9, lines 5-14; col. 14, lines 28-33) and wherein the first and second communication devices comprise mobile communication devices. (figure 2) Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the method disclosed by Huberman with Drutman in order to provide information related to the location of the mobile communication device to be used to subscribers of matchmaking or dating services. (col. 10, lines 8-15; Drutman)

As per claim 20:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. In addition, Drutman further discloses a method wherein the processor transmits text messages to the external device via the local communication interface. (col. 9, lines 5-12)

As per claim 21:

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The combination of Huberman and Drutman teaches all the subject matter as discussed above. In addition, Drutman further discloses a method wherein the communication interface provides a direct, wireless communication with the external device. (col. 9, lines 5-12)

As per claim 24:

Huberman teaches a system, comprising: a first communication device having a first plurality of attributes and a first key; a second communication device having a second plurality of attributes and a second key, the second communication device is adapted to communicate with the first communication device; wherein the first communication device encrypts each of the first plurality of attributes with a first key to form a first plurality of encrypted values and the second communication device encrypts each of the second plurality of attributes with a second key to form a second plurality of encrypted values; wherein the first communication device transmits each first encrypted value to the second communication device and the second communication device transmits each second encrypted value to the first communication device; wherein the first communication device encrypts each second encrypted values with the first key to produce a third plurality of encrypted values, and the second communication device encrypts each first encrypted value with the second key to produce a forth plurality of encrypted values; wherein the first communication device transmits each third encrypted value to the second communication device, and the second communication device transmits each fourth encrypted value to the first communication device; and wherein, if one of the first or second communication devices determines that any third

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encoded value matches any fourth encoded value, said one of the first or second communication devices enables a user of the communication device to physically locate a user of the other communication device; wherein the first communication device is capable of designating a subset of the first plurality of attributes as information that may always, occasionally or never be revealed to the second communication device. (page 80, 3.Community discovery; page 81, Private-Preference Matching; page 85, A. Cryptographic Details and Private Preference Matching)

Huberman does not explicitly disclose physically locating one another based on the result of the preference matching; and wherein the first and second communication devices comprise mobile communication devices. Drutman in analogous art, however, discloses physically locating one another based on the result of the preference matching; (col. 3, lines 60-66; col. 7, lines 15-30; col. 9, lines 5-14; col. 14, lines 28-33) and wherein the first and second communication devices comprise mobile communication devices. (figure 2) Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the method disclosed by Huberman with Drutman in order to provide information related to the location of the mobile communication device to be used to subscribers of matchmaking or dating services. (col. 10, lines 8-15; Drutman)

As per claim 27:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. In addition, Huberman further discloses a system wherein the first key is distinct from the second key. (page 85, Private Preference Matching)

2. Claims 22- 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huberman et al., "Enhancing Privacy and Trust in Electronic communities" (hereinafter Huberman) in view of Drutman et al. (hereinafter Drutman) US 6,618,593 and in view of Yeager et al. (hereinafter Yeager) U.S. Publication Number 2004/0133640

As per claims 22 and 25:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. Both references do not explicitly disclose wherein the communication interface implements Bluetooth. Yeager in analogous art, however, discloses wherein the communication interface implements Bluetooth. (page 22, paragraph 242)

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the method disclosed by Huberman and Drutman with Yeager in order to interact with a peer group with variety of network connections that includes wired and wireless such as IP, Bluetooth, or Havi among others. (page 22, paragraph 242; Yeager)

As per claim 23:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. Both references do not explicitly disclose a communication device's attribute comprises an attribute selected from the group comprising contacts, phone numbers, keywords, interests, appointments and favorite restaurants. Yeager in analogous art, however, discloses a communication device's attribute comprises an

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attribute selected from the group comprising contacts, phone numbers, keywords, interests, appointments and favorite restaurants. (page 19, paragraph 215) Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the method disclosed by Huberman and Drutman with Yeager in order to interact with a peer group with variety of network connections that includes wired and wireless such as IP, Bluetooth, or Havi among others. (page 22, paragraph 242; Yeager)

3. Claims 8, 9, 19 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huberman et al., "Enhancing Privacy and Trust in Electronic communities" (hereinafter Huberman) in view of Drutman et al. (hereinafter Drutman) US 6,618,593 and further in view of Zacks et al. (hereinafter Zacks) U.S. Publication Number 2004/0192383.

As per claim 8:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. Both references do not explicitly disclose a method wherein enabling the communication device users to physically locate one another comprises providing identical images on the first and second communication devices. Zacks in analogous art, however, discloses wherein enabling the communication device users to physically locate one another comprises providing identical images on the first and second communication devices. (page 5, paragraph 50) Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the method

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disclosed by Huberman and Drutman with Zacks in order to enable communication only between the communication device and detected communication device. (Abstract; Zacks)

As per claim 9:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. Both references do not explicitly disclose a method wherein enabling the communication device users to physically locate one another comprises emitting matching audible sounds via the first and second communication devices. Zacks in analogous art, however, discloses wherein enabling the communication device users to physically locate one another comprises emitting matching audible sounds via the first and second communication devices. (page 5, paragraph 50) Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the method disclosed by Huberman and Drutamn with Zacks in order to enable communication only between the communication device and detected communication device. (Abstract; Zacks)

As per claim 19:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. Both references do not explicitly disclose a method explicitly disclose a system comprising an antenna coupled to the processor, wherein the communication device is adapted to allow users of the communication and external devices to speak with one another via a service provider network. Zacks in analogous art, however, discloses a system comprising an antenna coupled to the processor, wherein the

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communication device is adapted to allow users of the communication and external devices to speak with one another via a service provider network. (page 8, paragraph 72) Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the method disclosed by Huberman and Drutman with Zacks in order to enable communication only between the communication device and detected communication device. (Abstract; Zacks)

As per claim 28:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. Both references do not explicitly disclose emitting an audible ring tone indicative of said total number of matches. Huberman discloses an approach to multiple shared preferences to find people who answered questions in a compatible way. This can be done quite efficiently in the case where compatibility is measured by the number of yes/no questions that were answered in common. A basic preference-matching function takes as input two lists of yes/no answers and a threshold. It outputs "true" if the number of answers where the two lists match is at or above the threshold. (page 81, Private Preference Matching) Zack teaches a communication device that can be used to communicate using any number of forms of communication including but not limited video, audio, text messaging, audio and/or symbolic messaging. (page 5, pp.50) Zack teaches using any number of forms of communication including but not limited to audio, it would have been obvious to one ordinary skill in the art at the time the invention was made to substitute one method for the other to achieve the different forms of communication.

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4. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huberman et al., "Enhancing Privacy and Trust in Electronic communities" (hereinafter Huberman) in view of Drutman et al. (hereinafter Drutman) US 6,618,593 and further in view of Doub et al. (hereinafter Doub) US 6,594,762.

As per claim 29:

The combination of Huberman and Drutman teaches all the subject matter as discussed above. Both references do not explicitly disclose wherein, if the first communication device is physically separated from the second communication device by a predetermined distance, the first communication device generates a message indicative of said separation. Doub in analogous art, however, teaches wherein, if the first communication device is physically separated from the second communication device by a predetermined distance, the first communication device generates a message indicative of said separation. (col. 3, line 43-61) Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the method disclosed by Huberman and Drutman with Doub in order to determine the two communications devices are located within the transmit range of each other. (col. 3, lines 47-48; Doub)

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEWAYE GELAGAY whose telephone number is (571)272-4219. The examiner can normally be reached on 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. G./

Examiner, Art Unit 2437

/Emmanuel L. Moise/

Supervisory Patent Examiner, Art Unit 2437